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EXAMINER	
CHARLES, MARCUS	

ART UNIT	PAPER NUMBER
3682	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/762,176	SCHOENDIENST, RUDOLPH	
	Examiner	Art Unit	
	Marcus Charles	3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 December 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *11-34* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) *11-34* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This action is responsive to the amendment filed 12-17-2007, which has been entered. Claims 11-34 are currently pending.

Election/Restrictions

1. The text of those sections not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 11-12 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Guillen, Jr. et al. (6,123,473). Guillen, Jr. et al disclose a belt comprising a wave glide surface (26) extending in the longitudinal direction of the belt, the wave glide surface having an apex and a base portion, a tracking guide (37) that extend in the longitudinal direction of the belt

In claims 12, the tracking guide (37) has a height that is greater than the apex of the portion of the wave glide.

4. Claims 11-12 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Breher Jr. et al. Breher et al. discloses a belt comprising a wave glide surface (4/5) extending in the longitudinal direction of the belt, the wave glide surface having an apex

(4) and a base portion (5); a tracking guide 26) extending in the longitudinal direction of the belt.

In claims 12, the tracking guide (26) has a height that is greater than the apex of the portion of the wave glide.

In claim 18, note the tracking guide is adjacent the wave glide surface.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Breher et al. in view of Macchiarulo et al. (4,708,703)). Breher et al. do not disclose the belt having teeth on the back surface of the belt. Macchiarulo et al. discloses a belt comprising a plurality of teeth (2) on the back surface of the belt, wherein the teeth has ribs (5) and grooves (6). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the belt of Breher et al. so that the belt comprises a plurality of teeth on the back surface in view of White, Jr. in order to increase the flexibility of the belt.

In claim 15, note the tracking guide is adjacent the wave glide surface.

7. Claims 16 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Breher et al. in view of Kohrn (4,416,649). Breher et al. does not disclose at least one channel provided on the wave glide surface. Kohrn discloses a belt having at least

one channel (21) in the longitudinal of the belt. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the belt of Breher et al. to include at lest a channel on the wave surface in view of Kohrn in order to reduce noise.

In claims 19 and 20, Kohrn does not disclose the shape of the channel as claimed. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the channels with the claimed shape, since it held that a change in the basic shape of a known apparatus would have been an obvious improvement. In re Dailey, 149 USPQ 47 (CCPA 1976)

8. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Breher et al. in view of Macchiarulo et al. as applied to claim 11 above, and further in view of Kohrn. Breher et al. does not disclose at least one channel provided on the wave glide surface. Kohrn discloses a belt having at least one channel (21) in the longitudinal of the belt. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the belt of Breher et al. to include at lest a channel on the wave surface in view of Kohrn in order to reduce noise.

9. Claims 23-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Breher et al. in view of Macchiarulo et al. and Kohrn. Breher et al. does not disclose at least one channel provided on the wave glide surface. Kohrn discloses a belt having at least one channel (21) in the longitudinal of the belt. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the belt of Breher et al. to include at lest a channel on the wave surface in view of Kohrn in order to

reduce noise. In addition, Breher et al. do not disclose the belt having teeth on the back surface of the belt. Macchiarulo et al. discloses a belt comprising a plurality of teeth (2) on the back surface of the belt, wherein the teeth has ribs (5) and grooves (6). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the belt of Breher et al. so that the belt comprises a plurality of teeth on the back surface in view of White, Jr. in order to increase the flexibility of the belt.

In claims 24, note the teeth of Macchiarulo et al. extends the lateral sides of the belt.

In claim 25, Breher et al. in view of Macchiarulo et al. disclose the claimed invention in paragraph 7, above.

In claim 26, Breher et al. discloses the claimed invention in paragraph 3, above.

In claim 27, note the slot (7) in the belt of Breher et al.

In claim 28, Breher et al, and Kohrn disclose the claimed invention above.

Response to Arguments

10. Applicant's arguments/amendment filed 12-17-2007 has been fully considered but they are not persuasive. Applicant contented that the prior art does not disclose the belt comprising a tracking guide that is adapted for engagement with a pulley and wave glide adapted for contacting a support member and not the pulley. It should be noted it has been held that the recitation than an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re Hutchison, 69 USPQ 138. In addition, the amendment to the claimed is for the intended use, a recitation of the intended use of the

claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

11. It should be noted 6hat the prior art clearly meet the limitation of the claimed invention. As should in the office rejection, all the limitation of the claims are met, which includes a tracking guide and a wave glide surface. It should be noted that the pulley includes a belt engagement surface 72, (see fig. 7) and a support surface for supporting the belt as it engages the engagement section of the pulley. Therefore, it is apparent that the pulley has a tracking section for engagement with the pulley and a glide section adapted for contacting the support member. Therefore, all the limitation of the positive limitation of the claimed invention have been anticipated by the prior art to Guillen et al. For the reasons give above the rejection is deemed proper.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Charles whose telephone number is (571) 272-7101. The examiner can normally be reached on Monday-Thursday 7:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ridley Richard can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Marcus Charles/
Primary Examiner, Art Unit 3682